

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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VENTURA, CA 93001  
(805) 585-1800



# W 10a

**DATE:** January 15, 2009

**TO:** Commissioners and Interested Persons

**FROM:** Jack Ainsworth, Deputy Director  
Steve Hudson, South Central Coast District Manager  
Barbara Carey, Supervisor, Planning and Regulation  
Amber Tysor, Coastal Program Analyst

**SUBJECT:** **Notice of Impending Development (NOID) 3-08**, for Channel Islands Landing/Boatyard Landside Reconstruction, for Public Hearing and Commission Action at the February 4, 2009, Commission Meeting in Huntington Beach.

## **SUMMARY AND STAFF RECOMMENDATION**

The Ventura County Harbor Department proposes to remodel one building, reconstruct two buildings, and perform various site improvements, including adding a public walkway and landscaping, at Channel Islands Landing/Boatyard located at 3615 and 3821 S. Victoria Avenue, Oxnard, CA. The approximately 14 acre parcel is located on the east side of Channel Islands Harbor, about one-half mile south of the Channel Islands Boulevard bridge. The boatyard portion of the site occupies the northern 3.5 acres of the site and the southern 10.5 acres of the site is occupied by commercial uses including boat storage, marine commercial uses, a yacht club, a yacht sales office, and parking and amenities for marina slip tenants. On the northern boatyard side of the site, an existing 4,020 square foot, 30 ft. by 134 ft., 13 ft. tall boatyard building adjacent to the boatyard will be remodeled with no change to the size of the building. On the southern 10.5 acre portion of the site, a new 3,600 sq. ft., 20 ft. tall building will be constructed, roughly in the center of the site at 3615 S. Victoria Avenue, in the location of a previously demolished 18,000 square foot building. Additionally, an existing two story 5,168 sq. ft. yacht club/yacht sales building located towards the south portion of the site will be demolished and replaced with a new 4,662 sq. ft., 24 ft. tall building at 3821 S. Victoria Ave. In addition, the project includes construction of a new approximately 980 foot public pedestrian walkway along the waterfront of the southern portion of the site, then eastward through the boatyard and then approximately 1,525 feet along the entire property boundary along Victoria Avenue.

The required items necessary to provide a complete Notice of Impending Development (NOID) were received in the South Central Coast Office on December 15, 2008 and the

notice was deemed filed on December 16, 2008. The Harbor Department extended the time for hearing until the February 2009 Commission hearing.

Staff is recommending that the Commission determine that the impending development **is consistent** with the certified Channel Islands Harbor Public Works Plan (PWP) if modified pursuant to **four (4) special conditions** regarding: (1) removal of temporary construction trailer, (2) approval of resource agencies, and (3) invasive plants, and (4) tree removal survey. As conditioned, the project is consistent with all resource protection policies and provisions of the Public Works Plan. See associated Motion and Resolution beginning on **Page 2**. The standard of review for the proposed NOID is conformity with the policies of the certified PWP.

## **I. PROCEDURAL ISSUES**

Sections 30605 and 30606 of the Coastal Act and Title 14, Sections 13357(a)(5), 13359, and 13353-54 of the California Code of Regulations govern the Coastal Commission's review of subsequent development where there is a certified PWP. Section 13354 requires the Executive Director or his designee to review the Notice of Impending Development (or development announcement) within five working days of receipt and determine whether it provides sufficient information to determine if the proposed development is consistent with the certified PWP. The notice is deemed filed when all necessary supporting information has been received.

Pursuant to Section 13359 of Title 14 of the California Code of Regulations, within thirty working days of the project proponent's filing of the Notice of Impending Development, the Executive Director shall report to the Commission the pendency of the development and make a recommendation regarding the consistency of the proposed development with the certified PWP. After public hearing, by a majority of its members present, the Commission shall determine whether the development is consistent with the certified PWP and whether conditions are required to bring the development into conformance with the PWP. No construction shall commence until after the Commission votes to render the proposed development consistent with the certified PWP.

## **II. STAFF RECOMMENDATION:**

**MOTION:**     *I move that the Commission determine that the development described in Ventura County Harbor Department Notice of Impending Development 3-08 (Channel Islands Landing/Boatyard Landside Remodel and Reconstruction), as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan.*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in a determination that the development described in the Notice of Impending Development 3-08, as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan, and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DETERMINE DEVELOPMENT IS CONSISTENT WITH PWP:**

The Commission hereby determines that the development described in the Notice of Impending Development 3-08, as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan for the reasons discussed in the findings herein.

**SPECIAL CONDITIONS:**

**1. Removal of Temporary Construction Trailer**

The applicant shall remove all staging equipment and all construction related debris from the staging site within sixty (60) days of completion of all development authorized under Ventura County Harbor Department NOID 3-08.

**2. Resource Agencies**

The Ventura County Harbor Department shall comply with all requirements, including required mitigation measures, from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the marine environment including bird nesting and foraging activity. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a new Notice of Impending Development pursuant to the requirements of the Coastal Act and the California Code of Regulations.

**3. Invasive Plants**

By acceptance of this Notice of Impending Development, the applicants agree that vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, and no plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified by the State of California shall be employed in any landscaping or planter areas, or allowed to naturalize or persist on the site. No plant species listed as a

‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized within the property.

#### **4. Tree Removal Survey**

***Prior to commencement of development and prior to removal of any tree on and/or directly adjacent to the site***, a qualified independent biologist or environmental resource specialist shall conduct a survey of the trees proposed to be removed to determine whether black-crowned night herons, great blue herons, snowy egrets, or other sensitive species are exhibiting reproductive or nesting behavior in the trees. This survey must be immediately submitted to the Executive Director of the Coastal Commission. In the event that the survey identifies any black-crowned night herons, great blue herons, snowy egrets, or other sensitive species exhibiting reproductive or nesting behavior, the tree(s) must not be removed and the Executive Director of the Coastal Commission must be immediately notified. Construction activities and/or tree removal can not recommence until an independent qualified biologist or environmental resource specialist determines that fledging has completed and the Executive Director of the Coastal Commission has re-authorized construction activities.

### **III. FINDINGS FOR APPROVAL OF THE NOTICE OF IMPENDING DEVELOPMENT, AS CONDITIONED**

The following findings support the Commission’s approval of the Notice of Impending Development, as conditioned. The Commission hereby finds and declares as follows:

#### **A. PROJECT DESCRIPTION AND BACKGROUND**

The Ventura County Harbor Department proposes to remodel one building, reconstruct two buildings, and perform various site improvements, including adding a public walkway and landscaping, at Channel Islands Landing/Boatyard located at 3615 and 3821 S. Victoria Avenue, Oxnard, CA. The approximately 14 acre parcel is located on the east side of Channel Islands Harbor, about one-half mile south of the Channel Islands Boulevard bridge. The boatyard portion of the site occupies the northern 3.5 acres of the site, which is adjacent to the County of Ventura Harbor Department Maintenance Yard to the north. The southern 10.5 acres of the site is occupied by commercial uses including boat storage, marine commercial uses, a yacht club, a yacht sales office, and parking and amenities for marina slip tenants. (Exhibits 1-4)

On the northern boatyard side of the site, an existing 4,020 square foot, 30 ft. by 134 ft. a 13 ft. tall boatyard building on the north side of the site adjacent to the boatyard will be remodeled with no change to the size of the building. The remodel will include a new roof, new exterior finish, new doors, and new paint. The building will continue to provide space for boatyard operations, including boat repair and maintenance. The boatyard will

be redesigned with a new entry and exit from Victoria Avenue. New parking along the northern area and existing boatyard will be reconfigured. Access to the boatyard will be controlled with a gate from Victoria Avenue and a gate from the southern portion of the leasehold. (Exhibit 4)

On the southern 10.5 acre portion of the site, a new 3,600 sq. ft. 20 ft. tall building will be constructed, roughly in the center of the site at 3615 S. Victoria Avenue, in the location of a previously demolished 18,000 square foot building that was destroyed by fire. The new building will be made available to tenants with marine-related businesses, including boatyard offices, marine retail, boat sales, and marina office uses. Parking will be provided adjacent to the building. An existing two story 5,168 sq. ft. yacht club/yacht sales building located towards the south portion of the site will be demolished and replaced with a new 4,662 sq. ft. 24 ft. tall building at 3821 S. Victoria Ave. The new 4,662 sq. ft. building will be located slightly to the east of the existing building that will be demolished in order to locate the building further away from the revetment and to allow circulation for emergency vehicles and trash pickup. The area between this building and Victoria Avenue will consist of a new boat display area, parking, and a sidewalk and landscaped area. This building will be used for a yacht club and yacht club sales. (Exhibits 2-3)

In addition, the project includes construction of a new approximately 980 foot public pedestrian walkway along the waterfront of the southern portion of the site continuing northward to the boatyard portion of the site. At that point, the public walkway will be constructed east towards Victoria Avenue thorough the center of the parcel and will continue along Victoria Avenue. The length of the public pathway along Victoria Avenue will be approximately 1,525 feet and will be improved with landscaping, including trees, shrubs, and vines. (Exhibit 1) The construction staging area for the project is proposed to be contained within the site itself, secured, and screened.

The existing site provides 111 parking spaces on the southern portion of the site and no parking spaces on the northern boatyard portion of the site. The new development plans provide for 400 spaces for boat storage, plus 118 parking spaces for the public and users of the site, 24 spaces will be located in the boatyard area and 94 will be located on the southern area of the site.

The Commission previously approved the replacement of boat slips on the waterside portion of this parcel (NOID 4-07) in April 2008 and approved other improvements on this site (NOID 2-07) in June 2007. That approved development will consist of 157 new slips (including a new dock system, new piers, four ramps, gangways and abutments, removal of a travel lift, construction of an updated marine railroad line, updated marina utility services and fire suppression systems, and a 1,026 sq. ft. handicapped accessible restroom and shower facility with a storage area, laundry room, and electrical room. The Harbor Department has provided detailed grading and drainage plans with this NOID submittal. The grading is designed so that the runoff is directed into bioswales and filters onsite.

The Channel Islands Harbor Public Works Plan designates the southern portion of the site, occupied by the Channel Islands Landing and Marina, as Visitor Serving Boating ("V.S.B."). The permitted uses for V.S.B. on land include: dry storage of boats, vehicle and boat trailer parking, and where launching facilities exist, the washing of boats and flushing of salt-water engine cooling systems, boat and boat equipment sales, rentals, display, brokerage, storage and minor repair and packaged (carry-out) food or beverage sales. The uses on the site will not change once the site is redeveloped and commercial uses will continue, including boat storage, a yacht club, yacht club sales office, and parking and amenities for marina slip tenants. The northern portion of the site is designated in the PWP as Boating Dependent Industrial, which allows boat haul-out, building, maintenance, repair, inspection, and storage and Harbor maintenance operations. The northern portion of the site will continue to be used as a boatyard. The boatyard building will contain boat repair and maintenance operations. The outdoor boatyard area is used and will be used for boat storage and boat repair and maintenance. Therefore, the uses proposed on this site are consistent with the land use designations specified in the PWP.

The Harbor Department has included in its submittal a list of 28 conditions, "County of Ventura Conditions of Approval, Channel Islands Landing/Boatyard Landside Remodel and Reconstruction NOID" (Exhibit 6), some of which incorporate the recently approved policies contained in the Channel Islands Harbor Public Works Plan Amendment 1-07 (revised findings certified by the Commission on October 16, 2008). The Harbor Department's conditions relate to: construction and maintenance responsibilities and debris removal (condition 27), a water quality management plan (condition 28), lighting (condition 10), and construction staging (condition 19).

### Background

On September 19, 1986, the Channel Islands Public Works Plan (PWP) was effectively certified by the Commission. The purpose of the PWP, as certified, is to provide "a detailed and specific planning document to guide future Harbor development." Jurisdiction within the Channel Islands Harbor is shared by both the County of Ventura and the City of Oxnard. Oxnard's City limits extend to all Harbor land areas. Based on a previous agreement between the two governmental authorities and the Commission's certification of the Public Works Plan, the County assumed planning and regulatory authority within the Harbor. Under the certified PWP, the County is responsible for approval of all development within the Harbor permitted by the plan. Under the PWP the County must submit a Notice of Impending Development (NOID) describing any proposed development that is listed in the plan, for review and approval by the Commission. For a project contained in the certified PWP, the Commission's review of a Notice of Impending Development is limited to determining whether the development is and can be made consistent with the PWP, or imposing reasonable terms and conditions to ensure that the development conforms to the PWP.

Requirements for the level of information contained in a Public Works Plan are contained in Section 13353 of Title 14 of the California Code of Regulations, which states that a PWP "shall contain sufficient information regarding the kind, size, intensity

and location of development activity intended to be undertaken pursuant to the plan.” Such information includes: 1) the specific type of activity or activities proposed to be undertaken; 2) the maximum and minimum intensity of activity or activities proposed to be undertaken; 3) maximum size of facilities proposed to be constructed pursuant to the plan; and 4) the proposed location or alternative locations considered for any development activity or activities to be undertaken pursuant to the proposed plan. The Coastal Act envisions that a Public Works Plan functions more as a Specific Plan or a master development permit in order for specific projects or activities described in the PWP to be approved quickly through the Notice of Impending Development Process at later dates with minimal review. Activities, projects, or facilities not specifically proposed in a Public Works Plan in the level of detail described above may require an amendment to the certified PWP that must be approved by the Coastal Commission prior to approval and issuance of a Notice of Impending Development for said activity, project, or facility.

The standard of review for the Notice of Impending Development is the certified PWP (originally certified in 1986 and more recently amended). The PWP contains policies and provisions that identify areas for harbor development while protecting coastal resources including the marine environment, scenic and visual resources, and public access and recreation.

## **B. COASTAL ACCESS**

In addition to the recreational provisions mentioned above, the certified Channel Islands Harbor PWP incorporates by reference Coastal Act Sections 30211 and 30212 to ensure that maximum public access and recreational opportunities be provided to allow use of dry sand and rocky coastal beaches and that development not interfere with the public’s right to access the water, consistent with the need to protect public safety, private property and natural resources.

Coastal Act Section 30211 states:

***Development shall not interfere with the public’s right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.***

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except where:

***(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,***

***(2) adequate access exists nearby, or,***

***(3) agriculture would be adversely affected.***

***Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.***

Further, the **Public Access and Recreation** Chapter of the PWP provides protections for public access.

Policy 2 states:

***Public access from the closest public roadway to the shoreline or along the waterfront shall be provided in new development or redevelopment projects, unless:***

***a. to do so would jeopardize the public safety, military security needs, or the adequate protection of fragile coastal resources;***

***b. sufficient access exists nearby.***

***The County will designate a public or private agency which shall be responsible for the operation, maintenance and liability of dedicated accessways prior to the approval of any new development or redevelopment projects. Actual improvements to accessways shall be completed and operational prior to the completion of new development or redevelopment.***

Policy 5 states:

***Maximum pedestrian waterfront access shall be provided by incorporating waterfront pedestrian walkways into all redevelopment projects. Where existing structures are found to interfere with lateral shoreline access, walkways shall be located as close as possible to the water. All walkways shall be linked with adjacent walkways in order to insure uninterrupted pedestrian movement. A promenade walkway shall be provided along the Harbor frontage for all new development.***

The proposed project involves reconstruction of the Channel Islands Landing/Boatyard landside parcel. The site does not currently have a public access pathway and no formal access to the water presently exists. As explained above, the proposed project includes construction of a new 980 foot-long public pedestrian walkway along the waterfront on the southern portion of the site continuing northward to the boatyard portion of the site. At that point adjacent to the proposed new building, the walkway will be constructed eastward towards Victoria Avenue thorough the center of the parcel and will continue along Victoria Avenue for approximately 1,525 feet. The walkway will be improved with landscaping, including trees, shrubs, and vines. (Exhibit 1) A pathway along the waterfront in the northern boatyard is not proposed as part of this



redevelopment plan. Instead, the pathway is diverted around the boatyard and onto the street. The Harbor Department asserts that constructing a pathway along the waterfront adjacent to the active boatyard will create a public safety hazard. The boatyard is designed so that the boats are hauled out of the water and launched into the water over the travel lift piers located at the southerly end of the boatyard. These travel lift piers and beams are cut into the edge of the embankment. The public walkway would need to be constructed around the embankment, which would encroach into the boatyard. This could cause potential safety hazards for pedestrians during boatyard operations when boats are being moved in and out of the water and when maintenance activities are occurring. The Harbor Department evaluated avoiding the travel lift and diverting the pathway parallel to the water, to the eastern side of the existing boatyard building through the boatyard, but also determined this would pose safety hazards to pedestrians due to boatyard activities.

The Harbor Department also explored several alternatives to create a safe public walkway located along the waterfront. The Harbor Department looked at the alternative of using an automated crossing guard/gate on the pedestrian path on each side of the boat lift area along the seaward edge of boatyard, but determined that this would be infeasible without an adjoining fence. The Harbor Department evaluated constructing fencing next to a waterfront pathway to keep pedestrians from entering the boatyard area. However, the Harbor Department determined this alternative would be infeasible after receiving opinions from two different fencing companies. The Harbor Department provided an analysis of three scenarios for gate design, including a single rolling gate, two rolling gates, and a double swinging gate. The single rolling gate would be too large and would block access to the boatyard building or retract across the driveway and block access to the marina and boat storage area. The single rolling gate would also be instable and subject to harbor winds because no posts could be installed without interfering with boatyard operations. Next, the alternative of two rolling gates would not work because it would also roll back and block boatyard operations and be instable without posts. The third gate alternative analyzed, a double swinging gate, would also not have clearance and would block boatyard operations over the travel lift area each time the travel lift would be used.

Additionally, the Harbor Department asserts the subject Channel Islands Landing/Boatyard site is one of only three parcels in the harbor where a waterfront public pathway will not be proposed. The Ventura County Harbor Yard to the north, is going to continue to be used as a boatyard. Presently, the County Harbor Yard is used by the harbor patrol for boat repair and maintenance and for storage of equipment and supplies for the County. The Harbor Department asserts that the use of this site is not expected to change. Also, the property adjacent to the Harbor Yard, the Anacapa Marine Services/Bellport Yard, is also proposed to continue to function as an active boatyard (pending NOID 4-08) and no public walkway is proposed along the waterfront on that site. Other than these three parcels, a draft walkway plan created by the Harbor Department shows that a public waterfront walkway is anticipated to accompany the development or redevelopment of all other sites in the Harbor. In compliance with Policy 2 of the PWP, the Harbor Department has provided evidence showing that placing a public walkway along the waterfront of the entire Channel Islands Landing/Boatyard site

would jeopardize public safety and no feasible mechanisms would safely allow public access.

Therefore, the Commission finds that the proposed project will not result in any adverse impacts to public access to and along the waterways in the Harbor and that this Notice of Impending Development is consistent with applicable public access policies of the Channel Islands PWP.

### **C. VISUAL RESOURCES**

The certified Channel Islands Harbor PWP incorporates by reference Coastal Act Section 30251, which seeks to protect the visual and scenic qualities of coastal areas as a resource of public importance.

Coastal Act Section 30251 states:

***The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.***

In addition, Policy 22 under Public Access and Recreation, Visual Access in the certified PWP states:

***To enhance visual quality and ensure that new development and redevelopment activity does not impede views to the water area from the roadway to and from the waterfront and inland Harbor area, the following measures shall be implemented by the County:***

***a. A view corridor shall be defined as that area between the roadway and the roadway and the water which is not occupied by buildings, solid walls or fences, or landscaping which might interfere with the view of the water or water surface activity from the roadway.***

***b. A view corridor shall be measured from the linear distance paralleling the nearest public road.***

***c. At least 25% of the Harbor shall provide a view corridor that is to be measured from the first main road inland from the water line, which shall be at least 25 feet in width. View corridors shall be landscaped in a manner that screens and softens the view across any parking and pavement areas in the corridor. This landscaping, however, shall be designed to frame and***

***accentuate the view, and shall not significantly block the view corridor. All redevelopment shall provide maximum views. Other than the proposed Boating Instruction and Safety Center (BISC) identified in this plan, no new development within a designated view corridor shall occur without an amendment to the Public Works Plan.***

***d. Future building or redevelopment in the Harbor shall not exceed 2 stories or 25 feet in height or 35 feet on parcel V-1 at the corner of Victoria and Channel Islands Boulevard. Height shall be measured from the centerline of the frontage road.***

The public views of the harbor waterways from Victoria Avenue will not change because the size and height of the structures proposed to be redeveloped will not increase. The boatyard building that will be remodeled will have the same height as the existing building. The other two buildings will be smaller in size and height than the previous buildings they intend to replace and will be smaller than 25 feet in height.

Additionally, to minimize lighting impacts from this new development, the Harbor Department has included the following special conditions in NOID 3-08 to minimize view impacts of night lighting:

10. Prior to installation of any lighting, a lighting plan shall be submitted and approved by the Harbor Department showing type of fixtures, heights, and intensity of illumination. Lighting fixtures shall be cut-off type fixtures that divert lighting downward onto the property and shall not cast light onto adjacent property, adjacent roadways or adjacent waterways. Under canopy lighting shall be concealed or recessed so as to not be directly visible from the street.

Therefore, the Commission finds that, as conditioned by the Harbor Department, the proposed Notice of Impending Development for the Channel Islands Landing/Boatyard Landside Reconstruction is consistent with the applicable visual resource protection policies of the certified Public Works Plan.

#### **D. BIOLOGICAL RESOURCES**

The certified Channel Islands Harbor PWP incorporates by reference Sections 30240, 30230, and 30231 of the Coastal Act. Section 30240 provides for the protection of Environmentally Sensitive Habitat Areas. Sections 30230 and 30231 of the Coastal Act mandate that marine resources and coastal water quality shall be maintained and where feasible restored.

Section 30240 of the Coastal Act States:

***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.***

***(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.***

Section 30230 of the Coastal Act states:

***Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.***

Section 30231 of the Coastal Act states:

***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.***

In addition, Policy 2 under Biological Resources in the Public Works Plan states:

***Use of the marine environment shall be permitted to the extent that it does not adversely impact the biological productivity of Harbor and coastal waters.***

The Channel Islands Harbor Public Works Plan contains policies to protect marine and biological resources and environmentally sensitive habitat areas in and around Harbor waters. The proposed project is for the redevelopment of the Channel Islands Landing/Boatyard, including construction of two new buildings and remodeling of one building. This development has the potential to adversely impact marine and biological resources during the construction phase of the project.

#### 1. Nesting Birds

Section 4.5 (Biological) of the PWP states:

***Within Channel Islands Harbor terrestrial biological resources are limited in distribution and significance. The area is completely developed with commercial, recreational and residential structures; terrestrial vegetation consists entirely of introduced landscaping species.***

***Notwithstanding this man-made environment, several bird species, such as great blue herons and black-crowned night herons, utilize the trees in the Harbor for roosting and nesting. Although none of these species is listed as threatened or endangered, their presence is considered important. In addition, nearby Hollywood Beach west of the Harbor is designated as critical habitat for western snowy plover and California least tern.***

The presence of these bird species is important because some species of herons and egrets are considered Sensitive Species and play an integral role in the ecosystem as top wetland predators.

The proposed project is located on the east side of Channel Islands Harbor. The project site includes only a few trees, most of which are along the far eastern boundary of the property, adjacent to Victoria Avenue, including Mexican fan palms, a Myoporum, and several small Melaluca. Twelve of the existing trees are proposed to be removed and replaced with new trees and other landscaping as part of the public pathway construction. The trees to be removed are not known nesting sites for sensitive bird species and no trees on the property on the east side of the harbor have been documented to contain nests of sensitive birds species according to surveys conducted by Dr. Jeffrey Froke, the Harbor Department's biologist. Dr. Froke regularly conducts surveys of trees within Channel Islands Harbor to identify the location of great blue heron and black-crowned night heron nests. Dr. Froke has never documented nesting trees on the Harbor's east side along Victoria Avenue, where the project site is located. However, great blue herons and black-crowned night herons use various locations throughout the Channel Islands Harbor as nesting sites and these sites have been documented monthly from 2003 to the present by Dr. Froke.

The most recent bird survey, prepared by Dr. Jeffery Froke in June 2008, documented fourteen Great blue heron nesting sites across the channel on the peninsula. (Exhibit 5) The closest known nesting site on the peninsula is approximately 480 feet away from the Channel Islands Landing/Boatyard property. While the previous NOIDs (NOID 2-08 and NOID 4-08) for the marina reconstruction at this site contain conditions requiring bird surveys and noise monitoring, the development proposed in this NOID will be more than 300 feet away from the nesting sites. Therefore, no tree surveys within 500 feet of the project site are required and, since the proposed development will be more than 300 feet of known nesting sites, no restrictions on development within 300 feet are proposed, as required in the PWP. However, **Special Condition Four (4)** requires a survey prior to tree removal to determine whether birds are nesting, roosting, or exhibiting reproductive behavior and in the event that any nest is found, prohibits removal of the tree(s) until fledging has been completed and the Executive Director of the Coastal Commission authorizes the removal.

## 2. Resource Agencies

In addition, in order to ensure that the proposed project is consistent with all California Department of Fish and Game and other agency regulations, **Special Condition Two (2)** requires the applicant to agree to comply with all requirements and mitigation measures from the California Department of Fish and Game, United States Army Corps of Engineers, US Fish and Wildlife Service, and the Regional Water Quality Control Board prior to commencement of construction.

The proposed construction/renovation of the three buildings and other project components has the potential to impact biological resources. **Special Condition Four (4)** relating to nesting birds, which will minimize these impacts, have been required. The Commission, therefore, finds that the proposed Notice of Impending Development is consistent, as conditioned, with the biological policies of the certified PWP.

## 3. Site Vegetation

Further, to ensure that any landscaping does not impact marine resources, **Special Condition Three (3)** requires that all vegetated landscaped areas consist of native plants or non-native drought tolerant plants, and requires that no plant species listed as problematic and/or invasive by the California Native Plant Society (the California Invasive Plant Council, or as may be identified by the State of California be used in any landscaping or planter areas, or allowed to naturalize or persist on the site. This condition also prevents plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government from being utilized within the property.

## **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The Harbor Department, in its role as lead agency for the PWP and the NOID for purposes of the California Environmental Quality Act ("CEQA"),<sup>1</sup> has determined that the project is categorically exempt from the provisions of CEQA, under CEQA Guidelines Section 15302. 14 C.C.R. § 15302 ("Replacement or Reconstruction"); see *also* CEQA section 21084 (authorizing promulgation of regulations listing categorical exemptions). For CEQA purposes, the Commission's role with respect to this project is that of a responsible agency. Despite the lead agency's determination of categorical exemption for the project, the Commission has separately considered the potential environmental impacts of the project as it would be characterized under both CEQA and the Coastal Act. As an agency with a certified regulatory program under CEQA section 21080.5, the Commission regularly assesses whether its approval of a project, as modified by any conditions of approval, is consistent with the provisions in CEQA Section 21080.5(d)(2)(A) that a proposed project not be approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen

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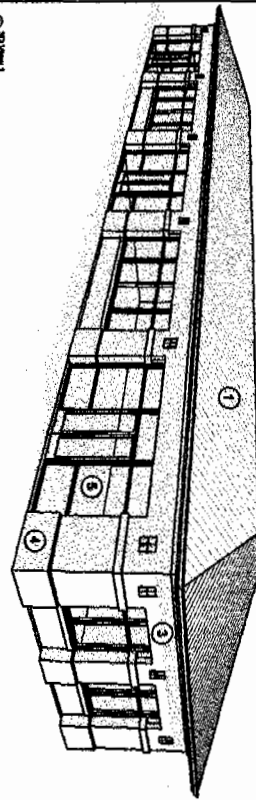
<sup>1</sup> Cal. Pub. Res. Code ("PRC") §§ 21000 *et seq.* All further references to CEQA sections are to sections of the PRC.

any significant adverse effect the activity may have on the environment. As in other contexts, the Commission has considered that question here.

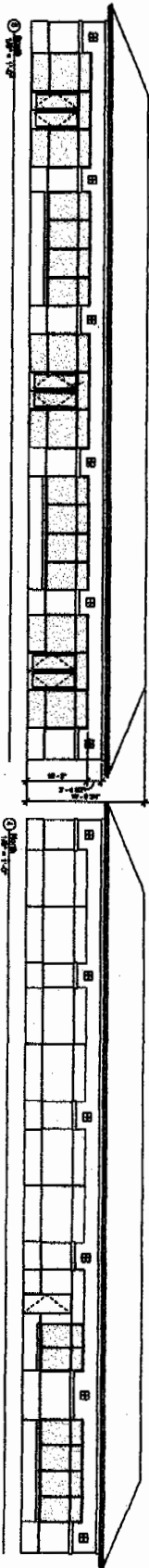
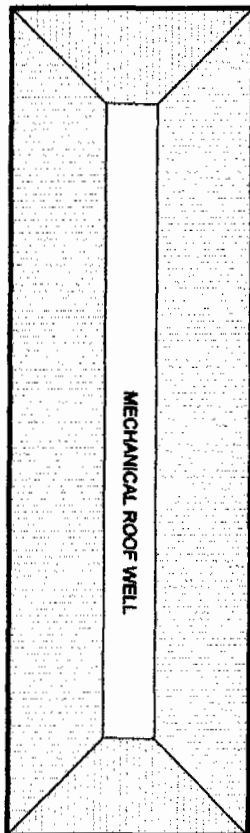
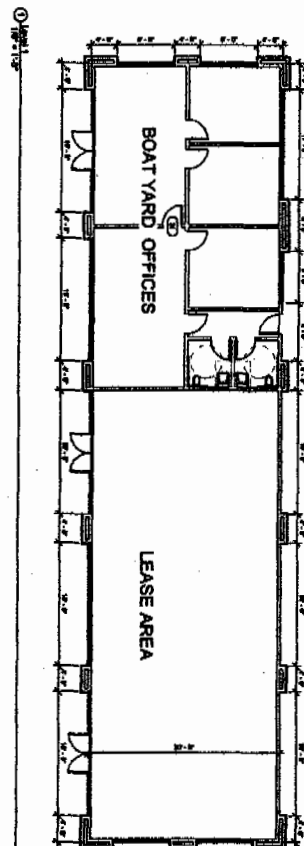
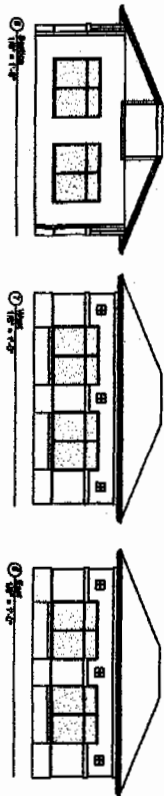
The Commission has imposed conditions upon the Notice of Impending Development to include such feasible measures as will reduce environmental impacts of new development. The Commission incorporates its findings on Coastal Act and PWP consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development approved by this NOID, as conditioned, is consistent with the policies of the certified PWP. Feasible mitigation measures that will minimize all adverse environmental impacts have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, that would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the Notice of Impending Development, as conditioned herein, is consistent with CEQA Section 21080.5(d)(2)(A), and the applicable provisions of the Public Works Plan.







- ① ROOFING
- ② METAL DOORS
- ③ WALLS & FASCIA
- ④ STUCCO BASE
- ⑤ STOREFRONT



**D. M. BERGERSON INC.**  
ARCHITECTURE & PLANNING  
2500 PARCEL AVENUE, WOODLAND HILLS, CALIF 91367  
TEL. (818) 715-1555 FAX (818) 715-1555

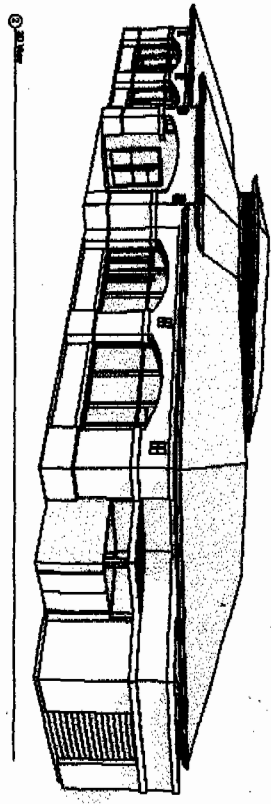
NO.	DATE	REVISION

-08 Channel Islands  
/Boatyard Landside  
and Reconstruction  
Victoria Ave.

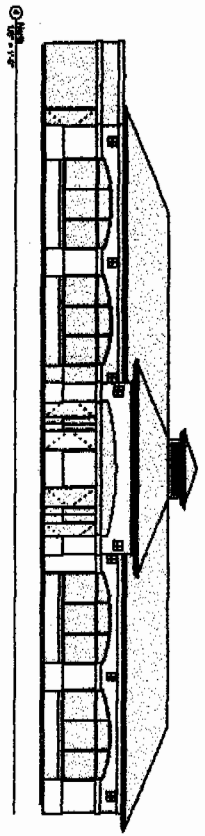
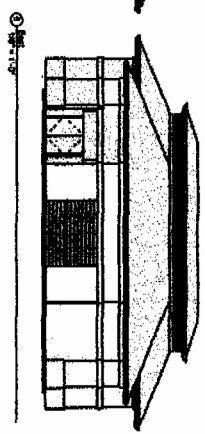
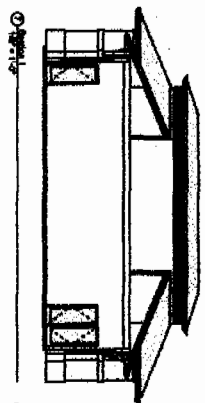
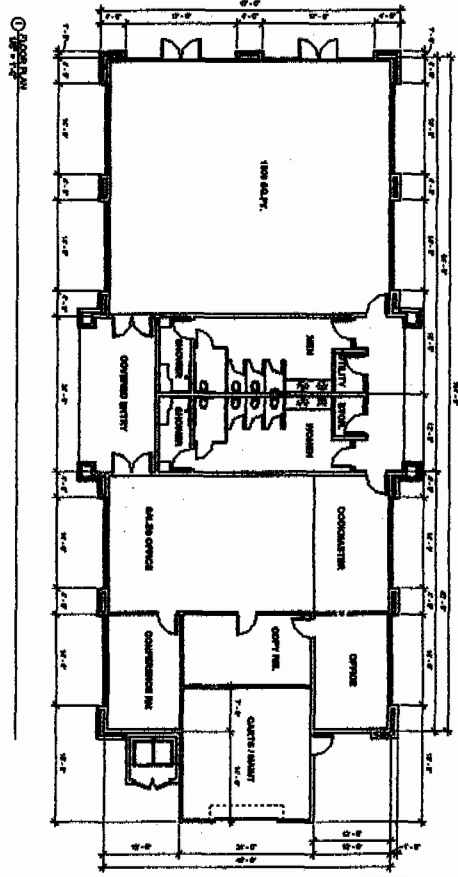
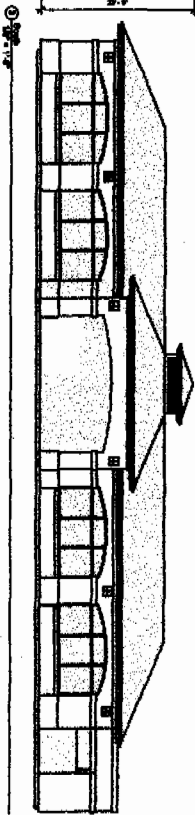
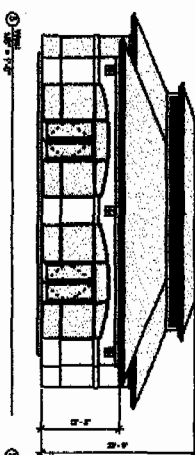
## EXHIBIT 2

CI Harbor NOID 3-08 (Channel  
Islands Landing/Boatyard)

3,600 sq. ft. new building plan



- ① ROOFING
- ② METAL DOORS
- ③ WALLS & FASCIA
- ④ STUCCO BASE
- ⑤ STOREFRONT

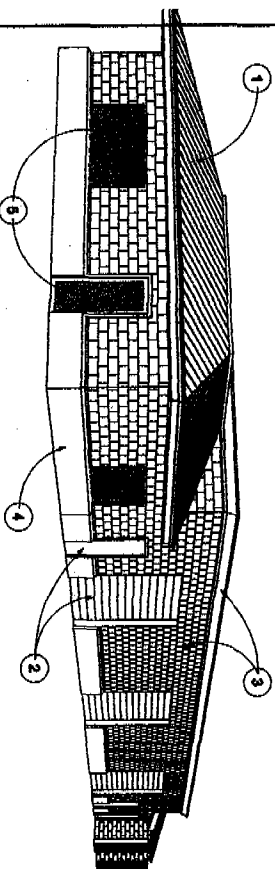
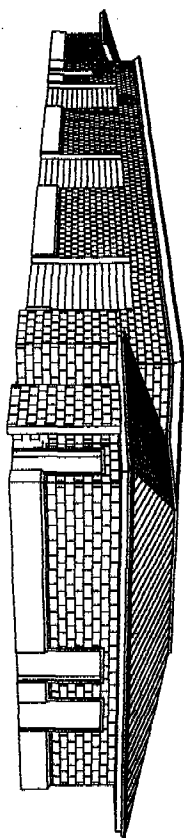


### EXHIBIT 3

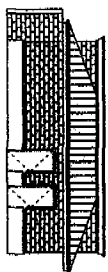
CI Harbor NOID 3-08 (Channel Islands Landing/Boatyard)  
4,662 sq. ft. new building plan

Channel Islands  
Boatyard Landside  
and Reconstruction  
Victoria Ave.

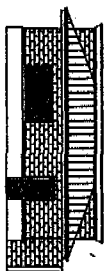
**D.M. BERGERSON INC.**  
ARCHITECTURE & PLANNING  
202 VANDER AVENUE, WOODLAND HILLS, CA 91367  
TEL: 818/715-1888 FAX: 818/715-1888



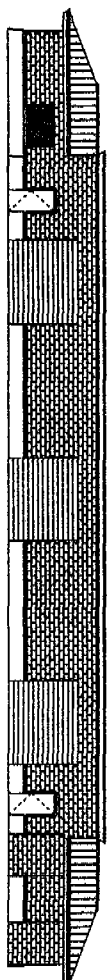
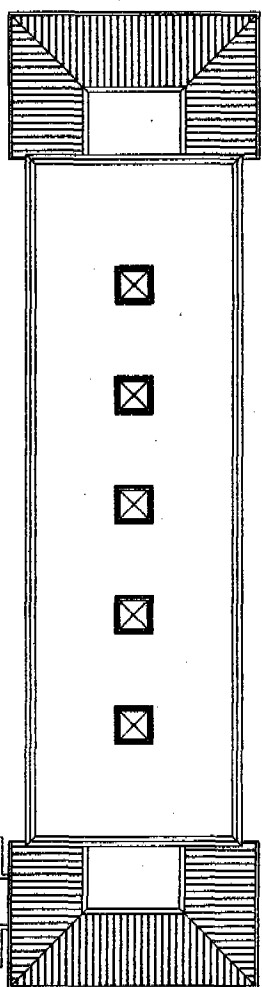
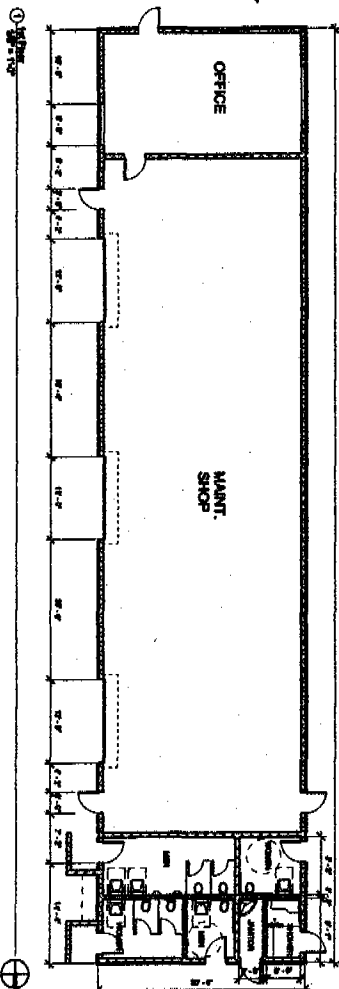
- 1 ROOFING
- 2 METAL DOORS
- 3 WALLS & FASCIA
- 4 STUCCO BASE
- 5 STOREFRONT



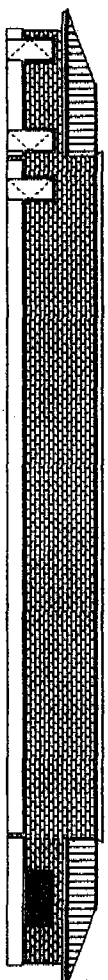

 NATIONAL BUREAU OF STANDARDS  
 U.S. DEPARTMENT OF COMMERCE



① 1993-1994



②  $\frac{1}{2} \times 10 = 5$



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**EXHIBIT 4**

CI Harbor NOID 13-08 (Channel Islands Landing/Boatyard)

## Boatyard building remodel plan

Channel Islands  
 Bayyard Landside  
 and Reconstruction  
 Building Remodel

**D.M. BERGERSON INC.**  
ARCHITECTURE & PLANNING  
4226 VARIET AVENUE, WOODLAND HILLS, CA 91367  
TEL. (818) 713-1888 TEL. (818) 718-1824



**JEFFREY B. FROKE, Ph.D.**

3158 Bird Rock Road / Pebble Beach, CA 93953

**CALIFAUNA**

TEL (831) 224-8595 / FAX (831) 649-3764

*jbfroke@mac.com*

01 June 2008

To: Lyn Krieger

Cc: Andi Culbertson, Marilyn Miller

Re: **HERONRY REPORT FOR APRIL & MAY 2008**

The following information, including a current nest map, is based on my most recent observations and data for nesting herons within the Channel Islands Harbor environment. Reported observations were made on **20 April** and **13 May 2008**. My last report to you was dated 07 April 08 and represented observations of 01 April 2008. I will be onsite for a June survey on the 5<sup>th</sup>).

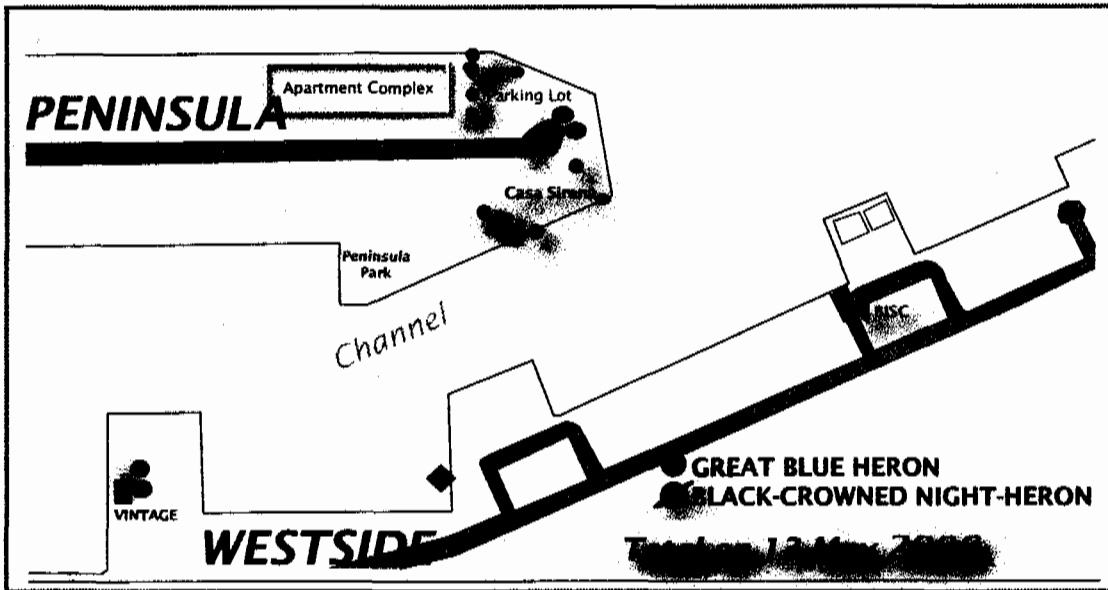
**Westside (Harbor Blvd.)** -- On 20 April, there were two BCNHs, one adult and one juvenile (2007 hatch) perched and walking about in the canopies of two adjacent cypress trees near the Vintage Marina Yacht Sales building, on the Westside. No direct evidence of nesting was seen in April; but in May, two additional (2<sup>nd</sup> & 3<sup>rd</sup> confirmed) adult BCNH were observed, one standing by the nest in the tree closest to the building and the other setting inside the nest in the second tree (both nests were caked with fresh guano, indicating ongoing nest use). Although not seen, it is reasonable to expect that one additional adult (female) may have been in the first nest, brooding. Total Westside nests = 2 (BCNH).

**Peninsula** -- Nine (9) heron nests in eight trees were confirmed to be active on the Peninsula, on 01 April. Nearly three weeks later, on 20 April, there were 10 active nests situated in nine trees. Of these, four were in and around Casa Sirena (palms and the central Monterey Pine), and the other six were in trees surrounding the anchorage parking lot (one cypress w/ BCNH; and five palms w/ GBH). By May, there were still the two active nests (BCNH) at Vintage Marina, plus three BCNH nests in the southern group of three cypresses next to the anchorage parking lot (total = 5 BCNH). Also in May, there was a total of 14 GBH nests, distributed as eight at Casa Sirena and six in the palms around the anchorage parking lot (*see attached map*).

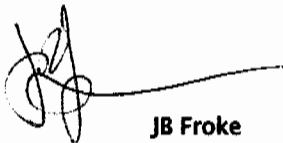
The locations of all (19-20+)\* active nests discovered during April and May are identified on the following CIH Heronry Map. ([\*]) without knowing the specific identities of all nesting birds, it is not possible to determine the true number of nesting pairs, or nesting efforts within the heronry. Therefore, the number of nests (or, nestings), whether successful, could exceed the instant number of active nests at any one time. *Total active nests confirmed @ CIH, 13 May 08: BCNH (5); GBH (14).*

## 2008 HERON SEASON

HERON NEST ATLAS for CHANNEL ISLANDS HARBOR HERONRY, 2003-2008



*Two parrots occasionally seen (and heard!) near the Marine Emporium Landing (◆ above) are Lilac-crowned Amazon (right) and Red-lored Amazon (left)*

  
JB Froke



**County of Ventura Conditions of Approval**  
**Channel Islands Landing/Boatyard Landside Remodel and Reconstruction NOID**

- 1) Prior to obtaining a building permit or grading permit from the City of Oxnard, the Harbor Department shall approve all plans for construction of this development, including grading, building, signage and landscaping plans. The revised plans submitted for approval by the Harbor Department and for building permit issuance shall demonstrate compliance with the PWP.
- 2) Any modifications to the plans after approval of the Harbor Department shall also be approved by the Harbor Department. Copies of the approved plans shall be provided to the Harbor Department in both paper and electronic format.
- 3) All landscaping, lighting, public access and signage plans shall comply with criteria approved by the County of Ventura.
- 4) No materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health shall be handled, stored or used on the project property, except as provided by a permit issued by the City of Oxnard Fire Department.
- 5) Landscaping and irrigation plans shall show proper water meter size, backflow prevention devices and cross-connection control. All irrigation systems shall be designed to be low water using and shall include automatic rain shut-off and water sensor shut off devices as water conservation measures.
- 6) All trees planted or placed on the property by the Lessee shall be at least 24-inch-box size. All shrubs and vines shall be at least five-gallon size, except as otherwise approved on the landscape plans.
- 7) All vehicle access driveways shall be constructed to meet Fire Department conditions. All curbs adjacent to designated fire lanes shall be painted to prohibit parking or stopping in accordance with the California Vehicle Code.
- 8) All roof covering materials shall be of non-combustible or fire retardant materials as approved by the City of Oxnard Fire Department and the City of Oxnard Code.
- 9) All Fire Department approvals to ensure access and the availability of water for fire combat operations to all areas of the project shall be obtained prior to final occupancy.
- 10) Prior to installation of lighting, a lighting plan shall be submitted to the Harbor Department showing type of fixtures, heights, and intensity of illumination. Lighting fixtures shall be cut-off type fixtures that divert lighting downward onto the property and shall not cast light onto adjacent properties, roadways or waterways. Under canopy lighting shall be concealed or recessed so as to not be directly visible from the street.
- 11) All trucks hauling graded or excavated material offsite, if any, shall be required to cover their loads as required by the California Vehicle Code Sec. 23114, with special attention to preventing spilling onto public streets.
- 12) All graded and excavated material, exposed soils areas, and active portions of the construction site, including unpaved onsite roadways, shall be treated to prevent fugitive dust. Treatment shall include, but not necessarily be limited to, periodic watering, application of environmentally safe soil stabilizer.

**EXHIBIT 6**

**CI Harbor NOID 3-08 (Channel Islands Landing/Boatyard)**

**Harbor Dep't Conditions of Approval**

compaction as appropriate. Watering shall be done as often as necessary and reclaimed water shall be used whenever possible.

- 13) Lessee's contractor shall ensure that all construction equipment is maintained and tuned to meet applicable Environmental Protection Agency (EPA) and California Air Resources Board (CARB) emission requirements. At such time as new emission control devices or operational modifications are found to be effective, lessee's contractor shall immediately implement such devices or operational modifications on all construction equipment.
- 14) Lessee's contractor shall minimize the number of vehicles and equipment operating on site at the same time.
- 15) At all times during construction activities, lessee's contractor shall minimize the area disturbed by clearing, grading, earth moving, or excavation operations to prevent excessive amounts of dust.
- 16) During periods of high winds (i.e. wind speed sufficient to cause fugitive dust to impact adjacent properties), lessee's contractor shall cease all clearing, grading, earth moving, and excavation operations to prevent fugitive dust from being a nuisance or creating a hazard, either onsite or offsite.
- 17) Throughout construction, lessee's contractor shall sweep adjacent streets and roads at least once per day, preferably at the end of the day, so that any visible soil material and debris from the construction site is removed from the adjacent roadways.
- 18) Lessee and/or lessee's contractor shall employ current Best Management Practices to protect against storm water runoff into storm drains and the harbor.
- 19) Construction staging areas shall be screened and protected to avoid material being blown or washed into the harbor. Screening material shall be approved by the Harbor Department. Lessee shall limit outdoor storage of materials to the locations shown and all construction material shall be stored within the staging area. Construction staging area shall remain locked and secure when not in use.
- 20) Hours of construction shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, and not allowed on Sunday or holidays without prior approval of the Harbor Department.
- 21) Signage shall be provided to notify the public when access to public sidewalk will be blocked because of construction. Signage will indicate alternate routes.
- 22) All roof heating and cooling systems, and other exterior mechanical equipment, shall be screened from view from adjoining properties, waterways or public streets. Plumbing vents, ducts, and other appurtenances protruding from the roof of structure shall be placed so that they will not be visible from the front of the property, from waterways, or other vantage points. Roof vents shall be painted to match the roof material color.
- 23) Exterior utility meter panels shall be painted to match the structure upon which it is located. Such panels shall be located to take advantage of screening (e.g., landscaping or other building elements) from public views, to the maximum extent feasible.
- 24) Lessee shall submit a master sign program for the entire project for approval of the Harbor Department prior to final certificate of occupancy.

- 25) Lessee is responsible for removing all graffiti from the project site within 24 hours and restoring the surface to match the existing.
- 26) Adequate trash facilities and pick ups shall be provided to maintain the site free of debris, food waste, and to minimize scavenger birds.
- 27) Construction and Maintenance Responsibilities and Debris Removal
- a) No Demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
  - b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to ESHA, wetlands or their buffers.
  - c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
  - d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
  - e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
  - f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
  - g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located within the coastal zone, a separate Notice of Impending Development shall be required before disposal can take place.
  - h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
  - i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
  - j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
  - k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
  - l) The least damaging method shall be used for the construction of pilings and any other activity that will disturb benthic sediments. The suspension of benthic sediments into the water column shall be minimized to the greatest extent practicable.
  - m) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction related materials, and to contain sediment or contaminants associated with demolition or construction activity shall be implemented prior to the onset of such activity.



- n) All BMPs shall be maintained in a functional condition throughout the duration of the project.

28) Water Quality Management Plan – All new development or redevelopment shall include a Water Quality Management Plan (WQMP), prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- a) The proposed development shall reduce or maintain pre-development peak runoff rates and average volumes to the maximum extent practicable.
- b) Appropriate structural and non-structural BMPs (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters. Structural Treatment Control BMPs shall be implemented when a combination of Site Design and Source Control BMPs are not sufficient to protect water quality.
- c) Impervious surfaces, especially directly connected impervious areas, shall be minimized and alternative types of pervious pavement shall be used where feasible.
- d) Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized.
- e) Trash, recycling and other waste containers shall be provided as necessary. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.
- f) Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips and other vegetated or media filter devices. The system of BMPs shall be designed to: 1) trap sediment, particulates and other solids; and 2) remove or mitigate contaminants (including trash, debris and vehicular fluids such as oils, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological uptake. The drainage system shall be designed to convey and discharge runoff from the developed site in a non-erosive manner.
- g) Parking lots and streets shall be swept on a weekly basis, at a minimum, in order to prevent dispersal of pollutants that might collect on those services, and shall not be sprayed or washed down unless the water used is directed through the sanitary sewer system or a filtered drain.
- h) The detergents and cleaning components used onsite shall comply with the following criteria: they shall be phosphate-free, biodegradable, and non-toxic to marine wildlife; amounts used shall be minimized to the maximum extent practicable; no fluids containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used.
- i) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour storm event for volume based BMPs,

and/or the 85<sup>th</sup> percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater) for flow-based BMPs.

- j) All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: 1) prior to October 15<sup>th</sup> each year; 2) during each month between October 15<sup>th</sup> and April 15<sup>th</sup> of each year and, 3) at least twice during the dry season.
- k) Debris and other water pollutants removed from structural BMPs during cleanout shall be contained and disposed of in a proper manner.
- l) Lessee shall maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.